



FROM THE COMMITTEE ON MODEL CRIMINAL JURY INSTRUCTIONS

The Committee on Model Criminal Jury Instructions has adopted the following amended model criminal jury instructions, effective January 2016.

ADOPTED

The Committee has adopted amended instructions for use in cases where the term “mentally retarded” was used in various instructions: M Crim JI 7.10, 16.23 and 20.11. That term was changed to “intellectually disabled,” and definitions were changed. The amended instructions reflect these changes.

M Crim JI 7.10 Person Under the Influence of Alcohol or Controlled Substances

(1) A person is not legally insane just because [he / she] was voluntarily intoxicated by alcohol or drugs at the time of the crime.

[(2) Drug intoxication is not voluntary and may be a defense if the defendant was unexpectedly intoxicated by the use of a prescribed drug. Intoxication was not voluntary where,

- (a) the defendant did not know or have reason to know that the prescribed drug was likely to be intoxicating,
- (b) the prescribed drug, not another intoxicant, must have caused the defendant’s intoxication, and
- (c) as a result of the intoxication, the defendant was rendered temporarily insane or lacked the mental ability to form the intent necessary to commit the crime charged.]¹

[(3) A person can become legally insane by the voluntary, continued use of mind-altering substances like alcohol or drugs if their use results in a settled condition of insanity before, during, and after the alleged offense.]²

(4) Of course, a mentally ill [or intellectually disabled] person can also be intoxicated, and both conditions may influence what [he / she] does. You should decide whether the defendant was mentally ill [or intellectually disabled] at the time of the crime. If [he / she] was, you should use the definitions I gave you to decide whether [he / she] was also legally insane.

M Crim JI 16.23 State of Mind

(1) You have heard evidence concerning the defendant's mental condition at the time of the alleged crime.

(2) It is not enough that the defendant did an act that caused death. In addition, the defendant must have had a certain state of mind when [he / she] did that act. In deciding whether the defendant had the required state of mind you may consider such things as [the defendant's history of mental problems and / the defendant's intellectual disability and] all of the circumstances surrounding the alleged crime.

(3) If you have a reasonable doubt about whether the defendant had the required state of mind at the time of the alleged crime, you must find the defendant not guilty of [*state crime(s) to which defense applies*].

M Crim JI 20.11 Sexual Act with Mentally Incapable, Mentally Disabled, Mentally Incapacitated, or Physically Helpless Person

(1) [Second / Third], that [*name complainant*] was [mentally incapable / mentally disabled / mentally incapacitated / physically helpless] at the time of the alleged act.

[*Choose one or more of (2), (3), (4), or (5):*]

(2) Mentally incapable means that [*name complainant*] was suffering from a mental disease or defect that made [him / her] incapable of appraising either the physical or moral nature of [his / her] conduct.

(3) Mentally disabled means that [*name complainant*] has a mental illness, is intellectually disabled, or has a developmental disability. "Mental illness" is a substantial disorder of thought or mood that significantly impairs judgment, behavior, or the ability to recognize reality and deal with the ordinary demands of life. "Intellectual disability" means significantly subaverage intellectual functioning that appeared before the defendant was 18 years old and impaired two or more of [his / her] adaptive skills.¹ "Developmental disability" means an impairment of general thinking or behavior that originated before the age of eighteen, has continued since it started or can be expected to continue indefinitely, is a substantial burden to [*name complainant*]'s ability to function in society, and is caused by [intellectual disability as described / cerebral palsy / epilepsy / autism / an impairing condition requiring treatment and services similar to those required for intellectual disability].

(4) Mentally incapacitated means that [*name complainant*] was [temporarily] unable to understand or control what [he / she] was doing because of [drugs, alcohol or another substance given to (him / her) / something done to (him / her)] without [his / her] consent.

(5) Physically helpless means that [*name complainant*] was unconscious, asleep, or physically unable to communicate that [he / she] did not want to take part in the alleged act.

(6) [Third / Fourth], that the defendant knew or should have known that [name complainant] was [mentally incapable / mentally incapacitated / physically helpless] at the time of the alleged act.

[Choose (7) or (8):]

(7) [Fourth / Fifth], that the defendant and [name complainant] were related to each other, either by blood or marriage, as [state relationship, e.g., first cousins].

(8) [Fourth / Fifth], that at the time of the alleged act the defendant was in a position of authority over [name complainant], and used this authority to coerce [name complainant] to submit to the sexual acts alleged. It is for you to decide whether, under the facts and circumstances of this case, the defendant was in a position of authority.

Use Note

Use this instruction in conjunction with M Crim JI 20.1, Criminal Sexual Conduct in the First Degree, M Crim JI 20.2, Criminal Sexual Conduct in the Second Degree, or M Crim JI 20.18, Assault with Intent to Commit Criminal Sexual Conduct in the Second Degree (Contact).

¹ The court may provide the jury with a definition of adaptive skills where appropriate. The phrase is defined in MCL 330.1100a(3), and means skills in 1 or more of the following areas:

- (a) Communication.
- (b) Self-care.
- (c) Home living.
- (d) Social skills.
- (e) Community use.
- (f) Self-direction.
- (g) Health and safety.
- (h) Functional academics.
- (i) Leisure.
- (j) Work.